

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

## GEORGE ALLAN O'DELL,

Plaintiff,

V.

JON HOLDEN, IAM UNION 751  
REPRESENTATIVE,

**Defendant.**

CASE NO. C12-027RSM

## ORDER ON MOTION TO DISMISS

This matter is before the Court for consideration of defendant Jon Holden's Rule 12(b)(6) motion to dismiss for failure to state a claim. Dkt. # 5. For the reasons set forth, the motion shall be granted.

Plaintiff George Allan O'Dell, appearing *pro se*, filed this action for discrimination in employment in Snohomish County Superior Court, naming as sole defendant his union representative Jon Holden. Dkt. # 2. Defendant removed the action to this Court on January 6, 2012, on the basis of federal preemption by the National Labor Relations Act, 29 U.S.C. § 159(a) and the duty of fair representation arising thereunder. Dkt. # 1. Defendant then moved to dismiss the complaint for failure to state a claim on the basis of Mr. Holden's immunity from suit for acts in his capacity as union representative. Dkt. # 5.

Plaintiff has failed to respond to the motion to dismiss in any way. Indeed, he has not appeared

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1 at all in this Court since the action was removed here more than three months ago. His failure to  
2 respond is deemed by the Court as an admission that the motion to dismiss has merit. Local Rule CR  
3 7(b)(2). His failure to appear in this Court is deemed as failure to prosecute. Local Rule CR 41(b)(2).

4 Accordingly, defendant's motion to dismiss (Dkt. # 5) is GRANTED, and this action is  
5 DISMISSED without prejudice.

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7 DATED this 18th day of April 2012.

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11 RICARDO S. MARTINEZ  
12 UNITED STATES DISTRICT JUDGE